(2) C.S.151 SINGLE BENCH (A)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) NO. 6965/2006

PETITIONER : The oriental Insurance Company Ltd.
Malviya Nagar, Durg.
Through – Divisional Manager,
Durg (C.G.)
(Policy issued by the Oriental Insurance Company Limited, Jaipur- Karnataka Main Road, Jaipur (Karnataka).

P.R. No. 20601/06
Presented by Shri Vipin Tiwari
dated 5/12/06

VERSUS

RESPONDENTS :1. Smt. Khembai Wd/o Komal Sahu,
Aged about 35 years.
2. Ku. Bhuvneshwari D/o late Komal Sahu,
Aged about 17 years.
3. Ku. Geeteshwari D/o Komal Sahu,
Aged about 14 years.
4. Ku. Urwashi Sahu D/o Komal Sahu,
Aged about 10 years.
5. Dilip Sahu S/o Komal Sahu,
Aged about 08 years.

Khembai Widow of Komal Sahu behalf of Minor respondent no. 2 and 3

All R/o village Batrel, Police Station-Ranchirai, Distt-Durg, (C.G.)

6. Ashraf Ali S/o Abubkas, aged about 40 yrs.
R/o Umarkot, P.S. – Umarkot, Distt.
Navrangpur, Orissa.
7. Manoj Kumar Agrawal S/o Biddi Chandra Agrawal , R/o Main Road, Umarkot, P.S. Umarkot, Distt.- Navrangpur, Orissa.

P.R. No.
Presented by Shri
dated

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

(20)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...WP 6965/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

2.1.2007

Shri Vipin Tiwari, Advocate for the petitioner.

Heard.

By this petition under Article 227 of the Constitution of India the petitioner has questioned the legality & correctness of the order dated 27.10.2006 (Annexure P-2) passed by the 12th Additional Motor Accident Claims Tribunal, (FTC), Durg in Claim Case No.109/2005 whereby learned Tribunal has rejected the application of the petitioner herein filed for extension of time to file the reply of the claim petition filed under Section 166 of the Motor Vehicles Act.

I have perused the impugned order in which it has been mentioned that as per the provisions of Rule 1 of Order 8 of CPC 30 days' time is allowed to file the written statement, which can be extended maximum upto 90 days and non-applicant No.3 has already been granted more than 90 days' time but he failed to file the written statement. The Tribunal is not entitled to extend the time and for the first time non-applicant No.3 by his application dated 27.10.2006 raised a plea that he has not received the copy of claim petition filed under Section 166 of the Motor Vehicles Act, but before that non-applicant No.3 has never raised any objection regarding non-receipt of the copy of the claim petition.

In the matter of **Salem Advocate Bar Association, Tamil Nadu Vs. Union of India** decided on 2.8.2005 reported in **2005 AIR SCW 3827**, the Hon'ble Apex Court held that '*time can be extended for filing written statement beyond 90 days but that cannot be made in routine. The time can be extended only in exceptionally hard cases. While extending time, it has to be borne in mind that the legislature has fixed the upper time limit of 90 days. The discretion of the Court to extend the time shall not be so*

P.T.O.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक व आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

frequently and routinely exercised so as to nullify the period fixed by Order VIII Rule 1.'

In this case, if the petitioner herein has not received the copy of claim petition, then he ought to have raised this plea on the very first day of his appearance that he has not received the copy of the claim petition. He raised this objection only after passing of 90 days period, thus this was an afterthought.

In the circumstances, the petitioner has not been able to make out a case for interference by this Court under Article 227 of the Constitution of India because this is not a case where learned Tribunal has failed to exercise the jurisdiction vested in it or exercised the jurisdiction not vested in it or this is not, in any case, a perverse order.

In the result, the petition of the petitioner is liable to be dismissed and accordingly, it is dismissed.

Consequently, M.(W.)P. No.4966/06 also stands disposed of.

Sd/-
Ag. Chief Justice

P.T.O.